

AMENDED IN SENATE APRIL 21, 2003

AMENDED IN SENATE APRIL 7, 2003

SENATE BILL

No. 39

Introduced by Senator Perata
(Principal coauthor: Assembly Member Chan)

January 3, 2003

An act relating to the Oakland Unified School District, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as amended, Perata. Oakland Unified School District: emergency loan.

(1) Existing law provides for emergency apportionments to school districts subject to specified conditions including, in certain circumstances, the repayment of an emergency loan over a period of no more than 10 years and the appointment by the Superintendent of Public Instruction of an administrator who would exercise the powers and responsibilities of the governing board of the school district.

This bill would require the Superintendent of Public Instruction to assume all the rights, duties, and powers of the governing board of the Oakland Unified School District and to appoint an administrator to act on behalf of the Superintendent of Public Instruction in exercising the superintendent's authority over the school district. The bill would authorize the administrator, with the approval of the superintendent, to enter into agreements on behalf of the school district and to change any existing district rules, policies, or practices, as provided.

The bill would specify that the governing board of the school district is not to receive any compensation during the period of the superintendent's authority over the district. The bill would authorize the administrator to terminate the employment of certain district personnel, as provided.

The bill would continue the authority of the superintendent and the administrator over the school district until certain enumerated conditions are met, including the completion of assessment and improvement plans for the school district.

The bill would require the administrator to consider, on a monthly basis, or more frequently if desired, information from one or more specified groups. The bill would require the County Office Fiscal Crisis and Management Assistance Team (FCMAT) to update comprehensive assessments and recovery plans by July 1, 2003, and would require the FCMAT to report on the implementation of those plans, as specified.

~~This bill would appropriate \$100,000,000 from the General Fund to the Superintendent of Public Instruction for the purpose of providing the Oakland Unified School District with an emergency loan. The bill would require the superintendent to appoint a trustee to oversee the operations of the district, and would authorize the trustee to stay or rescind any action of the governing board that may affect the financial condition of the district. The bill would authorize loan funds to be disbursed from the proceeds of the loan only if the trustee and the County Office Fiscal Crisis and Management Assistance Team (FCMAT) jointly determine that disbursement is necessary. The bill would require the district to repay the loan as a straight line loan amortized over a 20-year term, with interest as provided. The bill would require the district, in consultation with FCMAT, to develop a financial recovery plan, to be approved by the Alameda County Superintendent of Schools, and would require the district, each year, to prepare and submit to the trustee 4 quarterly financial reports evidencing progress on its financial recovery plan. The bill would require the plan, upon being approved by the trustee, to be submitted to the county superintendent of schools, the Superintendent of Public Instruction, and the Controller. Under the bill, if the Superintendent of Public Instruction determines that the district is not evidencing sufficient progress on its recovery plan, the trustee may exercise the powers of an administrator.~~

The bill would authorize the district from June 1, 2003, to June 30, 2005, inclusive, to declare as surplus property any property of the

district and to sell, sell back, lease or leaseback that property on or before June 30, 2004, and use the proceeds from that transaction to reduce or retire the loan.

The bill would require the school district ~~to prepare specified reports, and would require the district,~~ except as specified, to bear 100% of all costs associated with implementing its provisions, thereby imposing a state-mandated local program. *The bill would require the administrator to be added as an employee of the school district for certain insurance purposes.*

(2) This bill would declare that due to the unique circumstances relating to the Oakland Unified School District's fiscal emergency, a general statute cannot be made applicable.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason and would provide that with regard to any other mandates, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Providing a quality education that meets the unique needs
- 4 of Oakland public school pupils is a fundamental interest that
- 5 should not be jeopardized.
- 6 (b) In late August 2002, the Oakland Unified School District
- 7 became aware of a negative general fund balance for the 2001–02
- 8 fiscal year, and of potential deficits in its 2002–03 budget, and
- 9 thereafter, promptly reported this information to the Alameda
- 10 County Office of Education.

1 (c) The Oakland Unified School District is projected to run out
2 of cash in May of 2003 and will be unable to pay school employees
3 unless immediate action is taken.

4 (d) The Oakland Unified School District and its community
5 have the will and ability to continue the key educational reforms
6 that have benefited Oakland public school pupils in the last three
7 years and to make difficult decisions in order to immediately
8 eliminate all further overspending by the district.

9 (e) Despite initial budget cuts for the 2002–03 fiscal year
10 exceeding fourteen million dollars (\$14,000,000) and additional
11 budget cuts and adjustments of seventeen million dollars
12 (\$17,000,000), the Oakland Unified School District will have a
13 negative fund balance at the close of the current fiscal year and ~~will~~
14 ~~require~~ *requires* a loan from the State of California.

15 (f) In contrast to the circumstances surrounding other school
16 districts that have recently received state loans, there have not been
17 any accusations of intentional mismanagement or fraud in the
18 Oakland Unified School District. The budget deficits at the
19 Oakland Unified School District were inadvertently hidden by an
20 inadequate system of checks and balances in the district's financial
21 services division, and were exacerbated by declining enrollment,
22 increases in health care costs, and state education budget cuts.

23 (g) Despite its financial condition, the Oakland Unified School
24 District has made demonstrable academic improvements over the
25 last few years, witnessed by test score improvements, more fully
26 credentialed teachers in Oakland classrooms, and increased
27 parental and community involvement.

28 SEC. 2. (a) It is the intent of the Legislature that the ~~trustee~~
29 *state administrator* appointed pursuant to this act should work
30 with the present administrators and governing board of the
31 Oakland Unified School District to identify the procedures and
32 programs currently implemented by the district that have proven
33 to do one or more of the following:

34 (1) Significantly raise pupil achievement.

35 (2) Improve pupil attendance.

36 (3) Lower pupil dropout rate.

37 (4) Increase parental involvement.

38 (b) It is the intent of the Legislature that these identified
39 procedures and programs should be protected, maintained, and
40 expanded as the district's budget allows.

1 ~~SEC. 3. (a) Acceptance by the governing board of the~~
2 ~~Oakland Unified School District of the emergency loan authorized~~
3 ~~by Section 12 of this act constitutes an agreement by the Oakland~~
4 ~~Unified School District to all of the following conditions:~~

5 ~~(1) The Superintendent of Public Instruction shall appoint a~~
6 ~~trustee who has recognized expertise in management and finance~~
7 ~~to oversee the operations of the district. The superintendent may~~
8 ~~also employ, on a short-term basis, any staff necessary to assist the~~
9 ~~trustee, including, but not limited to, a certified public accountant.~~

10 ~~(2) The expenses incurred by the trustee and any necessary staff~~
11 ~~shall be paid by the district.~~

12 ~~(3) The superintendent shall establish the terms and conditions~~
13 ~~of the employment of the trustee and staff, including the salary of~~
14 ~~the trustee. The trustee shall serve at the pleasure of, and report~~
15 ~~directly to, the superintendent.~~

16 ~~(4) The trustee, and any necessary staff, shall serve until the~~
17 ~~emergency loan authorized by Section 12 of this act is fully repaid;~~
18 ~~the district has adequate fiscal systems and controls in place as~~
19 ~~determined by the superintendent, the district develops the~~
20 ~~financial recovery plan as required by Section 8 of this act, and the~~
21 ~~superintendent determines that the district's future compliance~~
22 ~~with the financial recovery plan will lead to fiscal solvency.~~

23 ~~SEC. 4. (a) To facilitate the appointment of the trustee and~~
24 ~~the employment of any necessary staff for purposes of this act, the~~
25 ~~superintendent is exempt from the requirements of Article 6~~
26 ~~(commencing with Section 999) of Chapter 6 of Division 4 of the~~
27 ~~Military and Veterans Code and Part 2 (commencing with Section~~
28 ~~10100) of the Public Contract Code.~~

29 ~~(b) Notwithstanding any other law, the superintendent may~~
30 ~~appoint an employee of the State Department of Education to act~~
31 ~~as trustee for up to the duration of the trusteeship. The salary and~~
32 ~~benefits of that employee shall be established by the~~
33 ~~superintendent and paid by the school district. During the time of~~
34 ~~appointment, the employee shall be deemed an employee of the~~
35 ~~school district, but shall remain in the same retirement system~~
36 ~~under the same plan as if the employee had remained in the~~
37 ~~department. Upon the expiration or termination of the~~
38 ~~appointment, the employee shall have the right to return to his or~~
39 ~~her former position, or to a position at substantially the same level~~
40 ~~as that position, with the department. The time served in the~~

1 appointment shall be counted for all purposes as if the employee
2 had served that time in his or her former position with the
3 department.

4 (e) For all purposes of errors and omissions liability insurance
5 policies, the trustee appointed pursuant to this act shall be deemed
6 to be an employee of the district.

7 (d) For the purpose of workers' compensation benefits, the
8 trustee shall be deemed an employee of the district, except that a
9 trustee appointed pursuant to subdivision (b) of Section 4 shall be
10 deemed an employee of the State Department of Education for that
11 purpose.

12 (e) Except for a trustee appointed by the superintendent
13 pursuant to subdivision (b), the trustee shall be a member of the
14 State Teachers' Retirement System, if qualified, for the period of
15 service as trustee, unless the trustee elects in writing not to become
16 a member. A person who is a member or retirant of the State
17 Teachers' Retirement System at the time of appointment shall
18 continue to be a member or retirant of the system for the duration
19 of the appointment. If the trustee chooses to become a member or
20 is already a member, the trustee shall be placed on the payroll of
21 the district for the purposes of providing appropriate contributions
22 to the system. The superintendent may also require that any trustee
23 appointed pursuant to subdivision (b) be placed on the payroll of
24 the school district for purposes of remuneration, other benefits,
25 and payroll deductions.

26 SEC. 5. (a) The trustee appointed pursuant to this act shall
27 monitor and review the operation of the Oakland Unified School
28 District. During the period of his or her service, the trustee may
29 stay or rescind any action of the governing board that, in the
30 judgment of the trustee, may affect the financial condition of the
31 district.

32 (b) The trustee, during the duration of his or her appointment,
33 shall maintain the core educational reforms that have led to
34 districtwide improvement of academic achievement, including,
35 but not limited to, educational reforms targeting underperforming
36 schools, new small schools, and other reforms that have
37 demonstrated measurable success.

38 (c) The superintendent may establish timelines and prescribe
39 formats for reports and other materials to be prepared by the
40 district and used by the trustee to monitor and review the

1 ~~operations of the district. The trustee shall approve all reports and~~
2 ~~other materials required from the district as a condition of~~
3 ~~receiving the loan.~~

4 ~~(d) Notwithstanding any other law, all reports submitted to the~~
5 ~~trustee shall be public records.~~

6 ~~(e) The superintendent, upon the recommendation of the~~
7 ~~trustee, may reduce any apportionment to the district in an amount~~
8 ~~up to two hundred dollars (\$200) per day for each late or~~
9 ~~unacceptable report or other material required under Part 24~~
10 ~~(commencing with Section 41000) of the Education Code, and~~
11 ~~shall report to the Legislature any failure of the district to comply~~
12 ~~with the requirements of that part.~~

13 ~~(f) If the superintendent determines, at any time, that the~~
14 ~~financial recovery plan developed by the district under Section 8~~
15 ~~of this act is unsatisfactory, he or she may modify the plan as~~
16 ~~necessary, and the district shall comply with the plan as modified.~~

17 ~~SEC. 6. At the request of the Superintendent of Public~~
18 ~~Instruction, the Controller shall transfer to the State Department~~
19 ~~of Education, from any apportionment to which the Oakland~~
20 ~~Unified School District would otherwise have been entitled~~
21 ~~pursuant to Section 42238, the amount necessary to pay the~~
22 ~~expenses incurred by the trustee and any associated costs incurred~~
23 ~~by the county superintendent of schools for purposes of this act.~~

24 ~~SEC. 7.—~~

25 *SEC. 3. The Legislature finds and declares that because of the*
26 *fiscal emergency in which the Oakland Unified School District*
27 *finds itself and in recognition of the March 27, 2003, request of the*
28 *governing board of the district for a loan from the state, it is*
29 *necessary that the Superintendent of Public Instruction assume*
30 *control of the district in order to ensure the return to the district of*
31 *fiscal solvency.*

32 *SEC. 4. (a) The Superintendent of Public Instruction shall*
33 *immediately assume all of the rights, duties, and powers of the*
34 *governing board of the Oakland Unified School District.*

35 *(b) The Superintendent of Public Instruction, in consultation*
36 *with the Alameda County Superintendent of Schools, shall appoint*
37 *an administrator to act on behalf of the Superintendent of Public*
38 *Instruction in exercising the authority described in this act. The*
39 *Superintendent of Public Instruction or the state-appointed*
40 *administrator may, on a short-term basis, employ at district*

1 *expense any staff necessary to assist the administrator, including,*
2 *but not limited to, a certified public accountant. The administrator*
3 *shall have recognized expertise in management and finance. The*
4 *administrator shall serve under the direction and supervision of*
5 *the Superintendent of Public Instruction until terminated by the*
6 *Superintendent of Public Instruction at his or her discretion. The*
7 *Superintendent of Public Instruction shall consult with the*
8 *Alameda County Superintendent of Schools prior to terminating*
9 *the administrator. The Superintendent of Public Instruction,*
10 *operating through the administrator, may do all of the following:*

11 *(1) Implement substantial changes in the fiscal policies and*
12 *practices of the Oakland Unified School District, including, if*
13 *necessary, the filing of a petition under Chapter 9 of the federal*
14 *Bankruptcy Act for the adjustment of indebtedness of the district.*

15 *(2) Revise the educational program of the Oakland Unified*
16 *School District to reflect realistic income projections, in response*
17 *to the dramatic effect of the changes in fiscal policies and practices*
18 *upon educational program quality and the potential for the success*
19 *of all pupils. To the extent allowed by district finances, it is the*
20 *intent of the Legislature that the revised program shall maintain*
21 *the core educational reforms that have led to districtwide*
22 *improvement of academic achievement, including, but not limited*
23 *to, educational reforms targeting underperforming schools, new*
24 *small schools, and other reforms that have demonstrated*
25 *measurable success.*

26 *(3) Encourage all members of the school community to accept*
27 *a fair share of the burden of the fiscal recovery of the Oakland*
28 *Unified School District.*

29 *(4) Consult, for the purposes described in this act, with the*
30 *governing board of the Oakland Unified School District, the*
31 *exclusive representatives of the employees of the district, parents,*
32 *and the community.*

33 *SEC. 5. (a) (1) To facilitate the appointment of the*
34 *administrator and the employment of any necessary staff, for the*
35 *purposes of this act, the Superintendent of Public Instruction is*
36 *exempt from the requirements of Article 6 (commencing with*
37 *Section 999) of Chapter 6 of Division 4 of the Military and*
38 *Veterans Code and Part 2 (commencing with Section 10100) of the*
39 *Public Contract Code.*

1 (2) *The salary and benefits of the state-appointed*
2 *administrator shall be established by the Superintendent of Public*
3 *Instruction and paid by the Oakland Unified School District.*

4 (3) *During the tenure of his or her appointment, the*
5 *administrator, if otherwise an employee of the state or of the county*
6 *superintendent, is an employee of the school district, but shall*
7 *remain in the same retirement system under the same plan that has*
8 *been provided by his or her employment with the state or the office*
9 *of the county superintendent. Upon the expiration or termination*
10 *of the appointment, the administrator shall have the right to return*
11 *to his or her former position, or to a position at substantially the*
12 *same level as that position, if that former position was with the*
13 *state or the office of the county superintendent. The time served in*
14 *the appointment shall be counted for all purposes as if the*
15 *administrator had served that time in his or her former position*
16 *with the state or with the office of the county superintendent.*

17 (b) *For the period of time during which the Superintendent of*
18 *Public Instruction exercises the authority described in subdivision*
19 *(a) of Section 4, the governing board of the Oakland Unified*
20 *School District has no rights, duties, or powers and is not entitled*
21 *to any stipend, benefits, or other compensation from the district.*

22 (c) *Notwithstanding any other provision of law, the*
23 *administrator may, after according the employee reasonable*
24 *notice and opportunity for hearing, terminate the employment of*
25 *any district superintendent of schools, or deputy, associate, or*
26 *assistant superintendent of schools, or other person employed in*
27 *an equivalent capacity, whose duties include overseeing,*
28 *managing, or otherwise directing the fiscal and budgetary*
29 *operations of the Oakland Unified School District, and who is*
30 *employed by the Oakland Unified School District under a contract*
31 *of employment renewed after the effective date of this act if the*
32 *employee fails to document, to the satisfaction of the*
33 *administrator, that before the effective date of this act he or she*
34 *either advised the governing board of the district, or his or her*
35 *superior, that actions contemplated or taken by the governing*
36 *board could result in the fiscal insolvency of the district, or took*
37 *other appropriate action to avert that fiscal insolvency.*

38 (d) *With the approval of the Superintendent of Public*
39 *Instruction, the administrator may enter into agreements on behalf*
40 *of the school district and, subject to any contractual obligation of*

1 *the school district, change any existing school district rules,*
2 *regulations, policies, or practices as necessary for the effective*
3 *implementation of the improvement plans specified in this act.*

4 *(e) The authority of the Superintendent of Public Instruction*
5 *and the administrator pursuant to this act shall continue until all*
6 *of the following conditions occur:*

7 *(1) (A) Two complete fiscal years have elapsed following the*
8 *appointment of the administrator.*

9 *(B) At any time after one complete fiscal year has elapsed*
10 *following that appointment, if the administrator determines, and*
11 *so notifies the Superintendent of Public Instruction, that future*
12 *compliance by the Oakland Unified School District with the*
13 *improvement plans is probable.*

14 *(2) The Superintendent of Public Instruction has approved the*
15 *improvement plans specified in this act.*

16 *(3) The Superintendent of Public Instruction determines that*
17 *for at least the immediately previous six months the school district*
18 *made substantial and sustained progress in implementation of the*
19 *improvement plans.*

20 *(4) The administrator certifies that all necessary collective*
21 *bargaining agreements have been negotiated and ratified, and that*
22 *the agreements are consistent with the terms of the recovery and*
23 *improvement plans.*

24 *(5) The district completes all reports required by the*
25 *Superintendent of Public Instruction and the administrator.*

26 *(6) The Superintendent of Public Instruction concurs that*
27 *future compliance by the Oakland Unified School District with the*
28 *improvement plans is probable.*

29 *(f) If all of the conditions specified in subdivision (e) occur, the*
30 *governing board of the Oakland Unified School District shall*
31 *regain all of its rights, duties, and powers.*

32 *(g) Notwithstanding subdivision (f), if the Oakland Unified*
33 *School District violates any provision of the improvement plans,*
34 *after the governing board of the school district regains all of its*
35 *rights, duties, and powers pursuant to subdivision (f), the*
36 *Superintendent of Public Instruction may reassume, in accordance*
37 *with this section, all of the rights, duties, and powers of the*
38 *governing board of the school district. The Superintendent of*
39 *Public Instruction shall subsequently return to the governing*
40 *board of the school district all of its rights, duties, and powers*

1 *reassumed under this subdivision if he or she determines that the*
2 *conditions of subdivision (e) are satisfied.*

3 SEC. 6. The ~~trustee~~ *administrator* shall consider, on a
4 monthly basis, or more frequently if so desired by the ~~trustee~~
5 *administrator*, information relating to the fiscal condition of the
6 district from one or more groups from each of the following
7 categories:

8 (a) The governing board of the school district.

9 (b) Any advisory council of the school district.

10 (c) Any parent-teacher organization of the school district.

11 (d) Representatives from the community in which the school
12 district is located.

13 (e) The County Office Fiscal Crisis and Management
14 Assistance Team.

15 ~~SEC. 8. (a) The Oakland Unified School District, in~~
16 ~~consultation with the County Office Fiscal Crisis and Management~~
17 ~~Assistance Team, shall develop a financial recovery plan, which~~
18 ~~shall be approved by the Alameda County Superintendent of~~
19 ~~Schools that shall include, among other things, all of the~~
20 ~~following:~~

21 ~~(1) Elimination of all future deficit spending.~~

22 ~~(2) Adoption of future balanced budgets.~~

23 ~~(3) Restoration of a positive fund balance.~~

24 ~~(4) Restoration of the 2 percent reserve for economic~~
25 ~~uncertainty.~~

26 ~~(b) During the year following receipt of the emergency loan~~
27 ~~pursuant to this act, commencing no later than October 31, and~~
28 ~~each year thereafter, until the loan, including interest, is repaid, the~~
29 ~~governing board of the Oakland Unified School District shall~~
30 ~~prepare and submit four quarterly interim financial reports~~
31 ~~evidencing progress on its financial recovery plan. The reports~~
32 ~~shall include, but not be limited to, all of the following~~
33 ~~information:~~

34 ~~(1) Specific actions taken to reduce expenditures or increase~~
35 ~~income, and the cost savings and increased income resulting from~~
36 ~~those actions.~~

37 ~~(2) A copy of the adopted budget for the current fiscal year.~~

38 ~~(3) Reserves for economic uncertainties.~~

39 ~~(4) Status of employee contracts.~~

1 ~~(5) Obstacles to the implementation of the adopted recovery~~
2 ~~plan.~~

3 ~~(e) The district shall submit the report to the trustee for review.~~
4 ~~Upon the trustee's approval of the report, the district shall transmit~~
5 ~~copies to the county superintendent of schools, the Superintendent~~
6 ~~of Public Instruction, and the Controller.~~

7 ~~SEC. 9. If the Superintendent of Public Instruction, through~~
8 ~~the trustee, determines that the Oakland Unified School District is~~
9 ~~not evidencing sufficient progress on its financial recovery plan,~~
10 ~~the trustee may exercise the powers of an administrator, as~~
11 ~~provided in Article 2.5 (commencing with Section 41325) of the~~
12 ~~Education Code.~~

13 ~~SEC. 10. —~~

14 ~~(f) The Superintendent of Public Instruction.~~

15 *SEC. 7. (a) On or before July 1, 2003, the County Office*
16 *Fiscal Crisis and Management Assistance Team (FCMAT) shall*
17 *update the January 2000 comprehensive assessments and recovery*
18 *plans of the Oakland Unified School District.*

19 *(b) Based upon progress reports prepared pursuant to*
20 *subdivision (c), FCMAT shall recommend to the Superintendent of*
21 *Public Instruction those designated functional areas of school*
22 *district operation that it determines are appropriate for the*
23 *governing board of the school district to assume.*

24 *(c) Commencing 30 days following the effective date of this act*
25 *and in September 2003, and each six months thereafter until*
26 *September 2004, FCMAT shall file a written status report with the*
27 *appropriate fiscal and policy committees of the Legislature,*
28 *including any special committees created for the purpose of*
29 *reviewing the reports, and with the Members of the Legislature*
30 *who represent the Oakland Unified School District, the advisory*
31 *board of the school district, the Superintendent of Public*
32 *Instruction, the Director of Finance, and the Secretary for*
33 *Education. The reports shall include the progress that the Oakland*
34 *Unified School District is making in meeting the recommendations*
35 *of the improvement plans developed pursuant to this act.*

36 *SEC. 8. (a) The Oakland Unified School District shall bear*
37 *100 percent of all costs associated with implementing this act,*
38 *except for the activities of the County Office Fiscal Crisis and*
39 *Management Team progress reports specified in Section 7 of this*
40 *act.*

1 **(b)** *The Oakland Unified School District shall add the*
2 *administrator as a covered employee of the school district for all*
3 *purposes of errors and omissions liability insurance policies.*

4 ~~SEC. 11.—~~

5 **SEC. 9.** Notwithstanding Section 42238.51 of the Education
6 Code, beginning with the 2002–03 fiscal year and continuing
7 through the 2004–05 fiscal year, the Oakland Unified School
8 District’s average daily attendance shall be calculated for purposes
9 of paragraph (1) of subdivision (a) of Section 42238.5 of the
10 Education Code, as follows:

11 (a) Compute Oakland Unified School District’s regular
12 average daily attendance in the current year.

13 (b) Compute Oakland Unified School District’s second
14 principal apportionment regular average daily attendance for the
15 prior year.

16 (c) To the greater of the amounts computed pursuant to
17 subdivisions (a) and (b), add the regular average daily attendance
18 in the current year of all pupils attending charter schools sponsored
19 by the district that are not funded pursuant to Article 2
20 (commencing with Section 47633) of Chapter 6 of Part 26 of the
21 Education Code.

22 ~~SEC. 12.—~~

23 **SEC. 10.** (a) The sum of one hundred million dollars
24 (\$100,000,000) is hereby appropriated from the General Fund to
25 the Superintendent of Public Instruction for apportionment to the
26 Oakland Unified School District for the purpose of an emergency
27 loan. In order to qualify for the loan, the district shall comply with
28 ~~Article 2 (commencing with Section 41320) and Article 2.5~~
29 (commencing with Section 41325) of Chapter 3 of Part 24 of the
30 Education Code to the extent those provisions are consistent with
31 the conditions specified in this act.

32 (b) Funds may be disbursed from the proceeds of the loan only
33 if the trustee and the County Office Fiscal Crisis and Management
34 Assistance Team jointly determine that the disbursement is
35 necessary.

36 (c) Based on the needs of the district to meet its obligations, the
37 Superintendent of Public Instruction may direct the Controller to
38 disburse, on a monthly basis, specific amounts of the emergency
39 loan before the approval of all of the conditions established by this
40 act.

(d) For the fiscal year in which the loan moneys are disbursed and each fiscal year thereafter, the Controller, or his or her designee, shall cause an audit to be conducted of the books and accounts of the district, instead of the audit required by Section 41020 of the Education Code. At the discretion of the Controller, the audit may be conducted by the Controller, his or her designee, or an auditor selected by the county superintendent and approved by the Controller. The costs of the audit shall be paid by the district. ~~An audit is required annually~~ *The audits shall be performed until the Superintendent of Public Instruction, in consultation with the County Office of Education Controller, determines that the district is financially solvent, but may not cease being required performed earlier than one year following the implementation of the plan required by Section 8 7 nor later than the time the emergency loan, including interest, is repaid. In addition, the Controller shall conduct quality control reviews pursuant to subdivision (c) of Section 14504.2 of the Education Code.*

~~SEC. 13.—~~

SEC. 11. (a) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (a) of Section 41327 of the Education Code, the Oakland Unified School District shall repay the emergency loan incurred pursuant to Section ~~12~~ 10 of this act as a straight line loan amortized over a 20-year term. This amount shall be repaid by the district, plus interest calculated at a rate equal to the rate earned by the Pooled Money Investment Account on the date this act becomes effective, for a period not to exceed 20 years.

(b) If a required payment is not made within 60 days after a scheduled date, the Controller shall pay the defaulted loan payment of principal and interest by withholding that amount from the next available payment that would otherwise be made to the county treasurer on behalf of the district pursuant to Section 14041 of the Education Code. However, subject to the approval of the Department of Finance, the amount withheld may be in monthly amounts as determined by an agreement between the Oakland Unified School District and the Controller during the period beginning with the next available apportionment through the month preceding the next scheduled payment.

(c) The Director of Finance may amend the payment schedule set forth in subdivision (a) if the director concludes that the amendment is warranted and is in the best interests of both the state

1 and the Oakland Unified School District education program. Upon
2 that determination, the director shall notify the Joint Legislative
3 Budget Committee that the payment scheduled will be changed on
4 the date that is 90 days from the date of notification if the
5 Legislature is in session. If the 90-day period ends during a recess
6 of the Legislature or while the Legislature is not in session, the
7 90-day period shall be extended until the Legislature reconvenes.
8 Amendments to the payment schedule shall defer the unpaid
9 portion of a repayment of the earliest fiscal year in which no other
10 repayment is scheduled. Interest shall accrue on the unpaid portion
11 of a repayment from the scheduled due date until the time the
12 payment is actually made. The interest charge shall be the rate
13 equal to the daily investment rate of the Pooled Money Investment
14 Account on the date the pay schedule is changed.

15 (d) The school district may repay its loan obligation without
16 incurring any prepayment penalties.

17 ~~SEC. 14.—~~

18 *SEC. 12.* (a) Notwithstanding Sections 17456, 17462, and
19 17463 of the Education Code, or any other law, from June 1, 2003,
20 to June 30, 2005, inclusive, the Oakland Unified School District
21 may declare as surplus property any property owned by the
22 district, and may sell, sell back, lease, or leaseback that property
23 on or before June 30, 2004, and use the proceeds from the sale, sale
24 back, lease, or leaseback to reduce or retire the emergency loan
25 provided by Section 42 10 of this act. In selling or leasing surplus
26 property pursuant to this subdivision, the district shall be exempt
27 from the requirements of Sections 17459 and 17464 of the
28 Education Code.

29 ~~SEC. 15.—~~

30 *SEC. 13.* The Alameda County Superintendent of Schools
31 maintains the responsibility to superintend school districts under
32 its jurisdiction. This act does not remove any statutory or
33 regulatory rights, duties, or obligations from the county
34 superintendent of school.

35 ~~SEC. 16.—~~

36 *SEC. 14.* The Department of Finance is authorized to redirect
37 funds appropriated in Item 6110-107-0001 of Section 2.00 of the
38 Budget Act of 2002 for the purposes of funding activities of the
39 County Office Fiscal Crisis and Management Assistance Team
40 specified in this act.

1 ~~SEC. 17.~~—

2 *SEC. 15.* The Legislature finds and declares that due to unique
3 circumstances relating to the fiscal emergency in the Oakland
4 Unified School District, a general statute cannot be made
5 applicable within the meaning of Section 16 of Article IV of the
6 California Constitution.

7 ~~SEC. 18.~~—

8 *SEC. 16.* No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district are the result of a program for which legislative authority
12 was requested by that local agency or school district, within the
13 meaning of Section 17556 of the Government Code and Section
14 6 of Article XIII B of the California Constitution.

15 ~~SEC. 19.~~—

16 *SEC. 17.* This act is an urgency statute necessary for the
17 immediate preservation of the public peace, health, or safety
18 within the meaning of Article IV of the California Constitution and
19 shall go into immediate effect. The facts constituting the necessity
20 are:

21 In order to address the fiscal emergency in which the Oakland
22 Unified School District finds itself and to ensure that it meets its
23 cash obligations for this fiscal year, it is necessary that this act take
24 effect immediately.

